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2220 - Not Served  
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SUMMONS

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US EPA RECORDS CENTER REGION 5



461044

(2-81) CCG-1

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

(Name all parties)

PEOPLE OF THE STATE OF ILLINOIS,  
ex rel. JAMES E. RYAN, Attorney  
General of the State of Illinois,

Plaintiff,

V.

EGAN MARINE CORP., an Illinois  
corporation,

Defendant.

No. ....

PLEASE SERVE:

EGAN MARINE CORP., by Registered Agent

DENIS EGAN

P.O. Box 352

Lemont, IL 60439

SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance in the office of the clerk of this court (located in the Richard J. Daley Center, Room \* Chicago, Illinois 60602), within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT, A COPY OF WHICH IS HERETO ATTACHED.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed. This summons may not be served later than 30 days after its date.

WITNESS ..... 19....

*AURORA PRINSKI*  
CLERK OF CIRCUIT COURT  
Clerk of Court

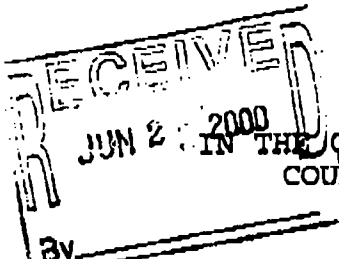
Atty No. 99000  
Name ILLINOIS ATTORNEY GENERAL JAMES E. RYAN  
Attorney for Plaintiff  
Address 100 West Randolph - 11th Floor  
City Chicago, IL 60601  
Telephone (312) 814-0608

Date of service: 23 JUNE 2000  
(To be inserted by officer on copy left with defendant or other person)

OF COUNSEL: KENDRA POHN, Assistant Attorney General

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

\*Law Division Room 801  
Chancery-Divorce Division Room 802



PEOPLE OF THE STATE OF ILLINOIS, )  
ex rel. JAMES E. RYAN, Attorney )  
General of the State of Illinois, )  
Plaintiff, )  
v. )  
EGAN MARINE CORP., an Illinois )  
Corporation, )  
Defendant. )

No.

00CH09296

COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, ex rel. JAMES E. RYAN, Attorney General of the State of Illinois, complains of the Defendant, EGAN MARINE, CORP., an Illinois Corporation, as follows:

COUNT I

OPEN DUMPING

1. This complaint is brought on behalf of the People of the State of Illinois by James E. Ryan, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 42(d) and (e) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(d) and (e) (2000), and is an action to restrain ongoing violations of the Act and for civil penalties.

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2000), and is charged, inter

alia, with the duty of enforcing the Act.

3. At all times relevant to this complaint, Defendant, Egan Marin, Corp. ("Egan") was and is an Illinois corporation in good standing and authorized to do business in the State of Illinois. *no. 5*

4. Egan owns a Barge loading facility located on North East Canal Road in Lemont, Cook County, Illinois, directly adjacent to the Chicago Sanitary Shipping Canal ("Site"). *Dany*

5. On or about October 8, 1999, the Illinois EPA conducted an investigation of the Site at the request of the United States Coast Guard. *Adm, T*

6. On that date, Defendant was treating liquid waste by mixing it with soil, compost, wood chips, and other miscellaneous trash and debris to render it non-liquid. *Dany*

7. Defendant had constructed a circular berm consisting of general refuse, soil, drum carcasses, pieces of wood, wood chips, metal asphalt, and other debris. *Adm, T*

8. Defendant had emptied liquid waste from drums into the center of the bermed area so the liquid would be absorbed by the materials in the berm. *Dany*

9. Also on or about October 8, 1999, liquid waste was seeping through the berm onto the ground outside the berm and in close proximity to the Chicago Sanitary and Shipping Canal. *Dany*

10. Upon information and belief, the waste dumped into the bermed area consists, in part, of hydraulic oil which could be hazardous depending on its type. *Dany*

11. Defendant does not have a permit to conduct these waste disposal activities at the site.

*Don't  
in DUB*

12. The bermed area is directly adjacent to the Chicago Sanitary and Shipping Canal which ultimately flows into the Des Plaines and Illinois Rivers.

*Don't*

13. Section 3.26 of the Act, 415 ILCS 5/3.26 (2000), provides as follows:

"Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, federal government, or interstate body.

*415  
con*

14. Defendant is a person as that term is defined in 415 ILCS 5/3.26 (2000).

*AP 11*

15. Section 3.53 of the Act, 415 ILCS 5/3.53 (2000), provides as follows:

"WASTE" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant hereto.

*hese  
con  
SPRINKLER  
CON*

16. Section 3.31 of the Act, 415 ILCS 5/3.31 (2000), provides: "'REFUSE' means waste." *SPMB 9627*

17. The waste liquid oil on the ground and in the bermed area, and compost, wood chips, miscellaneous trash, metal, asphalt and other debris were and are "waste" and "refuse" as those terms are defined in the Act. *Darry*

18. Section 3.08 and 3.43 of the Act, 415 ILCS 5/3.08 and 3.43 (2000), provide as follows:

"DISPOSAL" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"SITE" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

19. The depositing of waste liquid oil, soil, compost, woodchips and other miscellaneous trash and debris into the bermed area, constitute "disposal" as that term is defined in the Act. *Darry*

20. Section 3.41 of the Act, 415 ILCS 5/3.41 (2000), provides as follows:

"SANITARY LANDFILL" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each

day's operation, or by such other methods and intervals as the Board may provide by regulation.

21. The Site described herein is a disposal site as that term is defined in the Act, because waste is dumped or disposed thereon. The site has never been permitted by the Agency for the disposal of waste thereon. *Darry*

22. Section 3.24 of the Act, 415 ILCS 5/3.24 (2000), provides as follows:

"OPEN DUMPING" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill. *Darry Dumping*

23. By causing or allowing waste liquid oil to be dumped or disposed, onto the ground and into the bermed area at the site and mixing it with soil, compost, wood chips, trash and other debris, Defendant engaged in open dumping, as that term is defined in the Act. The site does not fulfill the requirements of a sanitary landfill. *Darry*

24. Section 21(a) of the Act, 415 ILCS 5/21(a) (2000), provides as follows:

No person shall:

a. Cause or allow the open dumping of any waste. *Darry*

25. The Defendant, by its actions as alleged herein, has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2000). *Darry*

26. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue

unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief. *Ramy*

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count I, and:

1. Finding that the defendant has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2000);

2. Enjoining the defendant from further violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2000);

3. Ordering Defendant to immediately take all necessary steps to ensure that no waste liquid from the Site is released onto the ground so as to constitute open dumping;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

## COUNT II

### CAUSING OR ALLOWING LITTER

1-25. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 25 of Count I as paragraphs 1 through

25 of this Count II.

26. Section 21(p) of the Act, 415 ILCS 5/21(p) (2000), provides in pertinent part as follows:

No person shall:

\* \* \*

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

\* \* \*

1. litter;

\* \* \*

6. standing or flowing liquid discharge from the dump site;

27. From at least October 1999 through the filing of this complaint, Defendant discharged liquid oil waste onto the ground on the site. The liquid oil waste seeped into the ground and the bermed area and was mixed with general refuse, where it remained in a disordered, untidy manner. As well, when the liquid oil waste was then mixed with solid, compost, wood chips trash and various debris to render it solid waste, the solid waste remained on the ground in a disordered, untidy manner. The defendant caused or allowed the open dumping of waste, which results in litter at the Site. *Denny*

28. The defendant, by its actions as alleged herein, has violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2000).

29. On or about October 8, 1999, waste oil and solid waste



were on the ground in the bermed area. As of the date of filing of this complaint, waste oil and solid waste remain on the ground. *Dany*

30. The defendant, by its actions as alleged herein, violated Section 21(p)(6) of the Act, 415 ILCS 5/21(p)(6) (2000). *Dany*

31. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief. *Shirley Dany*

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count II, and:

1. Finding that the defendant has violated Section 21(p)(1) and (6) of the Act, 415 ILCS 5/21(p)(1) and (6) (2000);

2. Enjoining the defendant from further violation of Section 21(p)(1) and (6) of the Act, 415 ILCS 5/21(p)(1) and (6) (2000);

3. Ordering Defendant to immediately cease creating or allowing litter and standing liquid at the site;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

### COUNT III

#### CONDUCTING A WASTE STORAGE, TREATMENT, AND DISPOSAL OPERATION WITHOUT A PERMIT

1-20. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 19 and 21 of Count I as paragraphs 1 through 20 of this Count III.

21. Section 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2) (2000), provides in pertinent part as follows:

No person shall:

\* \* \*

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit.

2. In violation of any regulations or standards adopted by the Board under this Act.

22. From at least October 1999 through the filing of this complaint, Defendant conducted a waste disposal operation at this Site without first obtaining a permit from the Agency in violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2000). *Denny*

23. Section 807.201 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.201, provides as follows:

Subject to such exemption as expressly provided in Section 21(e) of the Environmental Protection Act as to the requirement of obtaining a permit, no person shall cause or allow the development of any new solid waste management site or cause or allow the modification of an existing solid waste management site without a Development Permit issued by the Agency.

24. Section 807.104 of the Illinois Pollution Control Board ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 807.104, provides as follows:

'Waste management' means the process of storage, treatment or disposal of waste, not including hauling or transport.

'Solid waste management' means 'waste management'.

25. The disposal of waste liquid oil on the ground constitutes "waste management", as that term is defined in Section 807.104 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 708.104. *Deny*

26. From at least October 1999, and continuing until the date of filing of this complaint, the bermed area adjacent to the Chicago Sanitary and Shipping Canal has been a "solid waste management" site, as that term is defined Section 807.104 of 35 Ill. Adm. Code 708.104. Waste is dumped or disposed thereon. *Deny*

27. By causing or allowing waste liquid oil to leak or spill and discharge onto the ground and into the bermed area, the Defendant caused or allowed the development of a solid waste management site. *Deny*

28. The defendant has never had a Development Permit issued by the Agency, prior to the development of the solid waste management site. *Dmy 9-5 M G. M*

29. The defendant, by its actions as alleged herein, has violated Section 807.201 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.201. *Dmy*

30. By violating 35 Ill. Adm. Code 807.201, the defendant also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)(2000).

31. Section 807.202(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.202(a), provides as follows:

Subject to such exemption as expressly provided in Section 21(e) of the Environmental Protection Act as to the requirement of obtaining a permit, no person shall cause or allow the use or operation of any solid waste management site for which a Development Permit is required under Section 807.201 without an Operating Permit issued by the Agency, except for such testing operations as may be authorized by the Development Permit.

32. The defendant required a Development Permit to operate its solid waste management site. *Dmy*

33. From at least October 1999, and continuing until the date of filing of this complaint, the defendant has caused or allowed the use or operation of a solid waste management site without an Operating Permit issued by the Agency. *Dmy*

34. The defendant, by its actions as alleged herein, has violated Section 807.202(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.202(a). *Dmy*

35. By violating 35 Ill. Adm. Code 807.202(a), the defendant also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)(2000).

35. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count III, and:

1. Finding that the defendant has violated Section 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(2000) and 35 Ill. Adm. Code 807.201 and 807.202(a);

2. Enjoining the defendant from further violation of Section 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(2000) and 35 Ill. Adm. Code 807.201 and 807.202(a);

3. Ordering Defendant to immediately take all necessary steps to obtain proper permits to operate a waste disposal, storage and/or treatment facility at the Site;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

#### COUNT IV

##### IMPROPER DISPOSAL OF WASTE

1-19. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 19 of Count I as paragraphs 1 through 19 of this Count IV.

20. Section 21(e) of the Act, 415 ILCS 5/21(e) (2000) provides in pertinent part as follows:

No person shall:

\* \* \*

(e) dispose, treat, store or abandon any waste, or transport any waste into the this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards promulgated thereunder.

\* \* \*

21. Since at least October 1999, and continuing through the filing of this complaint, Defendant has treated, stored, disposed of waste at the Site, which does not meet the requirements of the Act.

22. By treating, storing, disposing of waste at a Site which does not meet the requirements of the Act, Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2000).

23. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the

pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count IV, and:

1. Finding that the defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2000);
2. Enjoining the defendant from further violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2000);
3. Ordering Defendant to immediately cease treating, disposing and/or storing waste at the site;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;
5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and
6. Granting such other relief as this court deems appropriate and just.

#### COUNT V

##### FAILURE TO MAKE A HAZARDOUS WASTE DETERMINATION

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 17 of Count I as paragraphs 1 through

17 of this Count V.

18. Section 21(i) of the Act, 415 ILCS 5/21i) (2000), provides as follows:

No person shall:

\* \* \*

- i. Conduct any process or engage in any act which produces hazardous waste in violation of regulations or standards adopted by the Board under subsections (a) and (c) of Section 22.4 of this Act.

19. Section 721.102 of the Board's regulations governing Waste Disposal, 35 Ill. Adm. Code 721.102, provides in part as follows:

a) Solid Waste

- 1) a solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.
- 2) a discarded material is any material which is:
  - A) abandoned, as explained in subsection (b), below; or
  - B) recycled, as explained in subsection (c), below; or
  - C) considered inherently wastelike, as explained in subsection (d), below.

b) Materials are solid waste if they are abandoned by being:

- 1) disposed of; or
- 2) burned or incinerated; or
- 3) accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated.

20. Section 720.110 of the Board Waste Disposal



Regulations, 35 Ill. Adm. Code 720.110, states as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or an constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

21. Section 3.12 of the Act, 415 ILCS 5/3.12 (2000), defines "generator" as any person whose act or process produces waste.

22. Defendant is a generator, as that term is defined in the Section 3.12 of the Act, of the oil or its constituents, which are discharged into the bermed area at the Site.

23. The oil and all materials placed in the bermed area are solid waste as that term is defined in 35 Ill. Adm. Code 721.102, because the oil was discarded on the ground.

24. Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, provides as follows:

A person who generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, shall determine if that waste is a hazardous waste using the following method:

- a) the person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) the person should then determine if the waste is listed as a hazardous waste in 35 Ill. Adm. Code 721. Subpart D.
- c) for purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D the generator shall then determine whether the waste is identified in 35 Ill. Adm. Code 721. Subpart C by either:
  - 1) testing the waste according to the methods

set forth in 35 Ill. Adm. Code 721. Subpart C, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121, or

2) applying the knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.

d) if the generator determines that the waste is hazardous, the generator shall refer to 35 Ill. Adm. Code 724, 725, and 728 for possible exclusions or restrictions pertaining to the management of the specific waste.

25. From at least October 1999, and continuing through the filing of this complaint, Defendant has failed to make a hazardous waste determination on the liquid oil waste Defendant discharged into the bermed area.

26. By its actions and failures alleged herein, Defendant has violation Section 21(i) of the Act, 415 ILCS 5/21(i) (2000), and 35 Ill. Adm. Code 722.111.

27. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count V, and:

1. Finding that the defendant has violated Section 21(i)

of the Act, 415 ILCS 5/21(i) (2000) and 35 Ill. Adm. Code 722.111;

2. Enjoining the defendant from further violation of Section 21(i) of the Act, 415 ILCS 5/21(i) (2000) and 35 Ill. Adm. Code 722.111;

3. Ordering Defendant to immediately conduct a hazardous waste determination of the liquid oil waste;

4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day against the defendant for each and every violation of the Act;

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

#### COUNT VI

##### FAILURE TO MAKE A SPECIAL WASTE DETERMINATION

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count VI.

18. Section 3.45 of the Act, 415 ILCS 5/3.45 (2000), contains the following definition:

"SPECIAL WASTE" means any of the following:

\* \* \*

- b. hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code, including a

residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous;

- c. industrial process waste or pollution control waste...

19. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2000), provides as follows:

No person shall:

\* \* \*

- d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

\* \* \*

- 2. In violation of any regulations or standards adopted by the Board under this Act.

20. Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides:

Each person who generates waste shall determine whether the waste is a special waste.

21. From at least October 1999, and continuing through the date of filing of this complaint, Defendant has failed to conduct a special waste determination on the oil it disposed of in the bermed area at the site.

22. From at least October 1999, and continuing through the date of filing of this complaint, Defendant has failed to certify, pursuant to Section 22.48 of the Act, 415 ILCS 5/22.48 (2000), that the discharged oil is not within the exception of

subsection "c" of Section 3.45 of the Act, 415 ILCS 5/3.45(c) (2000).

23. By its actions and failure to act as alleged herein, Defendant violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2000), and Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a).

24. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count VI, and:

1. Finding that the defendant has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2000), and 35 Ill. Adm. Code 808.121(a);

2. Enjoining the defendant from further violation of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2000), and 35 Ill. Adm. Code 808.121(a);

3. Ordering Defendant to immediately conduct a hazardous waste determination;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation

of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

## COUNT VII

### THREATENED WATER POLLUTION

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count VII.

18. Section 12(a) of the Act, 415 ILCS 5/12(a) (2000), provides as follows:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

19. Section 3.06 of the Act, 415 ILCS 5/3.06 (2000), provides as follows:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor or any form of energy, from whatever source.

20. The waste liquid is a "contaminant" as that term is defined in Section 3.06 of the Act.

21. Section 3.55 of the Act, 415 ILCS 5/3.55 (2000), provides as follows:

preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count VII, and:

1. Finding that the defendant has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2000);
2. Enjoining the defendant from further violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2000);
3. Ordering Defendant to immediately take all necessary measures to ensure that no liquid waste from the Site is released into the Chicago Sanitary and Shipping Canal;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;
5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and
6. Granting such other relief as this court deems appropriate and just.

#### COUNT VIII

##### CREATION OF A WATER POLLUTION HAZARD

1-23. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 23 of Count VII as paragraphs 1 through 23 of this Count VIII.

24. Section 12(d) of the Act, 415 ILCS 5/12(d) (2000) states in pertinent part as follows:

No person shall:

- (d) Deposit an contaminant on the land in such a place and manner so as to create a water pollution hazard.

25. From at least October 8, 1999, and continuing through the filing of this complaint, Defendant dumped waste fluids onto the ground in the bermed area at the Site in close proximity to the Chicago Sanitary and Shipping Canal, a water of the State of Illinois, in such a manner as to create a water pollution hazard.

26. From on and before October 8, 1999 and continuing through the filing of this complaint, Defendant by its actions alleged herein, caused or allowed the depositing of waste fluids, contaminants as defined herein, upon the land in such a place and manner so as to create a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2000).

27. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured, and violation of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count VIII, and:

1. Finding that the defendant has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2000);
2. Enjoining the defendant from further violation of



Section 12(d) of the Act, 415 ILCS 5/12(d) (2000);

3. Ordering Defendant to immediately take all necessary measures to ensure that no liquid waste from the Site is released onto the ground so as to create a water pollution hazard for the Chicago Sanitary and Shipping Canal;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

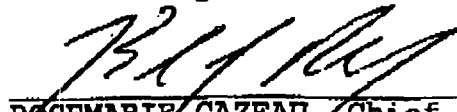
5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,  
ex rel. JAMES E. RYAN, Attorney  
General of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY:

  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

KENDRA POHN  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St. - 20th Fl.  
Chicago, IL 60601  
(312) 814-0608

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

#### COUNT IV

##### IMPROPER DISPOSAL OF WASTE

1-19. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 19 of Count I as paragraphs 1 through 19 of this Count IV.

20. Section 21(e) of the Act, 415 ILCS 5/21(e) (2000) provides in pertinent part as follows:

No person shall:

\* \* \*

(e) dispose, treat, store or abandon any waste, or transport any waste into the this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards promulgated thereunder.

\* \* \*

21. Since at least October 1999, and continuing through the filing of this complaint, Defendant has treated, stored, disposed of waste at the Site, which does not meet the requirements of the Act.

22. By treating, storing, disposing of waste at a Site which does not meet the requirements of the Act, Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2000).

23. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the

pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count IV, and:

1. Finding that the defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2000);

2. Enjoining the defendant from further violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2000);

3. Ordering Defendant to immediately cease treating, disposing and/or storing waste at the site;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the defendant for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

#### COUNT V

##### FAILURE TO MAKE A HAZARDOUS WASTE DETERMINATION

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 17 of Count I as paragraphs 1 through

17 of this Count V.

18. Section 21(i) of the Act, 415 ILCS 5/21i) (2000), provides as follows:

No person shall:

\* \* \*

- i. Conduct any process or engage in any act which produces hazardous waste in violation of regulations or standards adopted by the Board under subsections (a) and (c) of Section 22.4 of this Act.

19. Section 721.102 of the Board's regulations governing Waste Disposal, 35 Ill. Adm. Code 721.102, provides in part as follows:

a) Solid Waste

- 1) a solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.
- 2) a discarded material is any material which is:
  - A) abandoned, as explained in subsection (b), below; or
  - B) recycled, as explained in subsection (c), below; or
  - C) considered inherently wastelike, as explained in subsection (d), below.

b) Materials are solid waste if they are abandoned by being:

- 1) disposed of; or
- 2) burned or incinerated; or
- 3) accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated.

20. Section 720.110 of the Board Waste Disposal

Regulations, 35 Ill. Adm. Code 720.110, states as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or an constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

21. Section 3.12 of the Act, 415 ILCS 5/3.12 (2000), defines "generator" as any person whose act or process produces waste.

22. Defendant is a generator, as that term is defined in the Section 3.12 of the Act, of the oil or its constituents, which are discharged into the bermed area at the Site.

23. The oil and all materials placed in the bermed area are solid waste as that term is defined in 35 Ill. Adm. Code 721.102, because the oil was discarded on the ground.

24. Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, provides as follows:

A person who generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, shall determine if that waste is a hazardous waste using the following method:

- a) the person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) the person should then determine if the waste is listed as a hazardous waste in 35 Ill. Adm. Code 721. Subpart D.
- c) for purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D the generator shall then determine whether the waste is identified in 35 Ill. Adm. Code 721. Subpart C by either:
  - 1) testing the waste according to the methods

set forth in 35 Ill. Adm. Code 721. Subpart C, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or

- 2) applying the knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.
- d) if the generator determines that the waste is hazardous, the generator shall refer to 35 Ill. Adm. Code 724, 725, and 728 for possible exclusions or restrictions pertaining to the management of the specific waste.

25. From at least October 1999, and continuing through the filing of this complaint, Defendant has failed to make a hazardous waste determination on the liquid oil waste Defendant discharged into the bermed area.

26. By its actions and failures alleged herein, Defendant has violation Section 21(i) of the Act, 415 ILCS 5/21(i) (2000), and 35 Ill. Adm. Code 722.111.

27. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order granting a preliminary injunction and, after a trial, a permanent injunction, in favor of Plaintiff and against Defendant on this Count V, and:

1. Finding that the defendant has violated Section 21(i)

of the Act, 415 ILCS 5/21(i) (2000) and 35 Ill. Adm. Code 722.111;

2. Enjoining the defendant from further violation of Section 21(i) of the Act, 415 ILCS 5/21(i) (2000) and 35 Ill. Adm. Code 722.111;

3. Ordering Defendant to immediately conduct a hazardous waste determination of the liquid oil waste;

4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day against the defendant for each and every violation of the Act;

5. Taxing all costs in this action, including expert witness, consultant and attorney fees, against the defendant; and

6. Granting such other relief as this court deems appropriate and just.

#### COUNT VI

##### FAILURE TO MAKE A SPECIAL WASTE DETERMINATION

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count VI.

18. Section 3.45 of the Act, 415 ILCS 5/3.45 (2000), contains the following definition:

"SPECIAL WASTE" means any of the following:

\* \* \*

- b. hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code, including a